

MARK J. BENNETT 2672
Attorney General of Hawaii

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2006 DEC 28 AM 9:09

HAWAII LABOR
RELATIONS BOARD

Attorney for the Director of
Labor and Industrial Relations
State of Hawaii

HAWAII LABOR RELATIONS BOARD

STATE OF HAWAII

In the Matter of	CASE NO.	OSH 2006-22
DIRECTOR, DEPARTMENT OF)	
LABOR AND INDUSTRIAL)	
RELATIONS,)	DIRECTOR, DEPARTMENT OF LABOR
)	AND INDUSTRIAL RELATIONS'
Complainant,)	WITHDRAWAL OF CITATIONS; EXHIBIT
)	A
vs.)	
)	
BEACHSIDE ROOFING LLC,)	
)	
Respondent.)	
)	
)	

BEACHSIDE Lanakila. Withdraw

DIRECTOR, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS'
WITHDRAWAL OF CITATIONS

WHEREAS the DIRECTOR OF LABOR AND INDUSTRIAL RELATIONS,
(Director), by his Hawaii Occupational Safety and Health Division
(HIOSH) inspected the work site of BEACHSIDE ROOFING LLC
(Respondent) located at 1809 Bachelot Street, Honolulu, Hawaii
96817 between June 27, 2006 and June 30, 2006 and;

WHEREAS, the Director issued a Citation and Notification of Penalty on August 23, 2006, Inspection Number 309458784 to Respondent for violations (Exhibit A):

1. Citation 1 Item 1a, a grouped Serious violation of 29 CFR 1926.1101(e)(1) for potentially exposing employees to asbestos hazard, and

a. Citation 1 item 1b, 29 CFR 1926.1101 (j)(1)(i) for not establishing a decontamination area for Respondent's employees; thus incurring a grouped penalty of \$1,625.00; and

2. Citation 1 Item 2a, a grouped Serious violation of 29 CFR 1926.1101(e)(6) for not having a competent person supervise workers who may be exposed to asbestos hazards, and

b. Citation 1 Item 2b, 29 CFR 1926.1101(f)(2)(i), for not conducting an initial exposure assessment to determine whether Respondent's employees may be exposed to asbestos hazard, thus incurring a penalty of \$1,625.00; and

3. Citation 1 Item 3a, a grouped Serious violation of 29 CFR 1926.1101.(k)(3)(ii) for not informing Respondent's employees of the possible presence of asbestos in the work area and precautions to be taken to avoid exposure to asbestos, and

a. Citation 1 Item 3b, 29 CFR 1101.(k)(9)(iv)(A), for not training Respondent's employees of means to avoid asbestos exposure while removing roofing material, thus incurring a penalty of \$1,625.00; and

4. Citation 2 Item 1, an Other violation of 29 CFR 1926.1101.(h)(1)(iv) for not providing respiratory protection equipment to Respondent's employee engaged in removing roofing material; and


5. Citation 2, Item 2, and Other violation of 29 CFR 1926.1101(i)(1) for not providing and requiring Respondent's employees to wear protective clothing while removing roofing material that may contain asbestos.

NOW THEREFORE, it is stipulated and agreed by the Parties that the Citation and Notification of Penalty issued on August 23, 2006 (Inspection Number 309458784) are withdrawn in its entirety and considered null and void.

DATED: Honolulu, Hawaii, December 28, 2006.

APPROVED AS TO FORM:

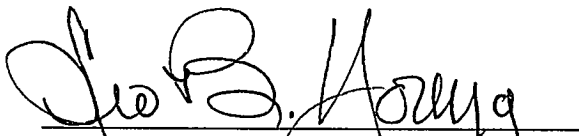
BEACHSIDE ROOFING LLC.

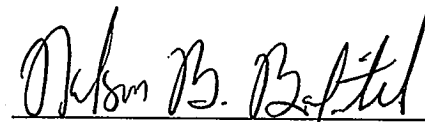

Bruce Voss, Esquire
Attorney for Respondent

By: 
Scot A. Jimenez
Its Company Managing Member

APPROVED AS TO FORM:

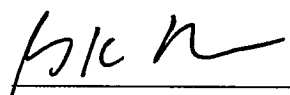
DIRECTOR OF LABOR AND
INDUSTRIAL RELATIONS


Leo B. Young
Deputy Attorney General
Attorney for Director of Labor
and Industrial Relations,
State of Hawaii


NELSON B. BEFITEL

APPROVED AND SO ORDERED BY
HAWAII LABOR RELATIONS BOARD:

ORDER NO. 227


BRIAN K. NAKAMURA, Chair

~~Emory J. Springer~~
EMORY J. SPRINGER, Member

~~Sarah R. Hiramami~~
SARAH R. HIRAKAMI, Member

State of Hawaii
Department of Labor and Industrial Relations
Hawaii Occupational Safety and Health Division
830 PUNCHBOWL STREET, ROOM 425
Honolulu, HI 96813
Phone: (808) 586-9090 FAX: (808) 586-9104



Certified Number: 7005 3110 0001 1082 0421

Citation and Notification of Penalty

To:
Beachside Roofing LLC
and its successors
1809 Bachelot St
Honolulu, HI 96817

Inspection Number: 309458784 (Yunlin Huang)

Inspection Date(s): 06/27/2006 - 06/30/2006

Issuance Date: 08/23/2006

OSHA ID: Z5490

Optional Report No.: 0643

Inspection Type: Complaint

Scope of Inspection: Partial Inspection

Inspection Site:
1809 Bachelot St
Honolulu, HI 96817

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty describes violations of the Hawaii Occupational Safety and Health Law. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within 20 calendar days from your receipt of this Citation and Notification of Penalty, you mail a notice of contest to the State of Hawaii Occupational Safety and Health Division (HIOSH) at the address shown above. Please refer to the enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Law has occurred unless there is a failure to contest as provided for in the Law or, if contested, unless this Citation is affirmed by the Hawaii Labor Relations Board (HLRB) or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and State holidays), whichever is longer. The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.

249

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Administrator during the 20 calendar day contest period. During such an informal conference, you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Administrator within 20 calendar days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 4, Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

Employers' Right to Contest - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Administrator in writing that you intend to contest the citation(s) and/or penalty(ies) within 20 calendar days after receipt, the citation(s) and the penalty(ies) will become a final order of the Department of Labor and Industrial Relations and may not be reviewed by any court or agency. Once a letter of contest is received, it becomes the jurisdiction of the HLRB.

Penalty Payment - Penalties are due within 20 calendar days of receipt of this notification unless contested. Make your check or money order payable to "Director of Budget and Finance." Please indicate the Inspection Number on the remittance.

HIOSH does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Notification of Corrective Action - For each violation which you do not contest, you are required by Section 12-51-22 to submit an Abatement Certification to HIOSH. The certification must be sent by you within 5 calendar days of the abatement date indicated on the citation. For **Willful and Repeat** violations, documents (example: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citation states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

All abatement verification documents must contain the following information: 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

248

The law also requires a copy of all abatement verification documents, required by Section 12-55-22 to be sent to HIOSH, also be posted at the location where the violation appeared and the corrective action took place.

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 60 days after the discrimination occurred with the Hawaii Occupational Safety and Health Division at the address shown above.

Employer Rights and Responsibilities - The enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Employees' Right to Contest - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Hawaii Occupational Safety and Health Division at the address shown above and postmarked within 20 calendar days of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data - you should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at WWW.OSHA.GOV. If you have any dispute with the accuracy of the information displayed, please contact this office.

247



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with HIOSH to discuss the citation(s) issued on 08/23/2006. The conference will be held at the HIOSH office located at 830 PUNCHBOWL STREET, ROOM 425, Honolulu, HI 96813 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

246

STATE OF HAWAII

Department of Labor and Industrial Relations
Hawaii Occupational Safety and Health Division

Inspection Number: 309458784
Inspection Dates: 06/27/2006 - 06/30/2006



830 Punchbowl Street, Room 425
Honolulu, HI 96813

Issuance Date: 08/23/2006

Citation and Notification of Penalty

Company Name: Beachside Roofing LLC
Inspection Site: 1809 Bachelot St, Honolulu, HI 96817

The alleged violations below (1a & 1b) have been grouped because they involve similar or related hazards that may increase the potential for illness or injury resulting from an accident.

Citation 1 Item 1a Type of Violation: **Serious**

29 CFR 1926.1101(e)(1) [Refer to chapter 12-145.1, HAR] was violated because:

Class II asbestos roofing material removal work was not conducted within a regulated area exposing the employees potentially to serious asbestos hazards.

29 CFR 1926.1101(e)(1) states "All Class I, II and III asbestos work shall be conducted within regulated areas. All other operations covered by this standard shall be conducted within a regulated area where airborne concentrations of asbestos exceed, or there is a reasonable possibility they may exceed a PEL. Regulated areas shall comply with the requirements of paragraphs (2), (3), (4) and (5) of this section."

Location: Job site at Lanakila Rehabilitation Center

Date By Which Violation Must be Abated:
Penalty:

Corrected
\$1,625.00

245

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

STATE OF HAWAII

Department of Labor and Industrial Relations
Hawaii Occupational Safety and Health Division

Inspection Number: 309458784
Inspection Dates: 06/27/2006 - 06/30/2006



830 Punchbowl Street, Room 425
Honolulu, HI 96813

Issuance Date: 08/23/2006

Citation and Notification of Penalty

Company Name: Beachside Roofing LLC
Inspection Site: 1809 Bachelot St, Honolulu, HI 96817

Citation 1 Item 1b Type of Violation: **Serious**

29 CFR 1926.1101(j)(1)(i) [Refer to chapter 12-145.1, HAR] was violated because:

There was no decontamination area provided for the employees who did Class II asbestos roofing material removal work exposing the employees potentially to serious asbestos hazards.

29 CFR 1926.1101(j)(1)(i) states "Decontamination areas. The employer shall establish a decontamination area that is adjacent and connected to the regulated area for the decontamination of such employees. The decontamination area shall consist of an equipment room, shower area, and clean room in series. The employer shall ensure that employees enter and exit the regulated area through the decontamination area."

Location: Job site of Lanakila Rehabilitation Center

Date By Which Violation Must be Abated:

Corrected

244

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

STATE OF HAWAII

Department of Labor and Industrial Relations
Hawaii Occupational Safety and Health Division

Inspection Number: 309458784
Inspection Dates: 06/27/2006 - 06/30/2006



830 Punchbowl Street, Room 425
Honolulu, HI 96813

Issuance Date: 08/23/2006

Citation and Notification of Penalty

Company Name: Beachside Roofing LLC
Inspection Site: 1809 Bachelot St, Honolulu, HI 96817

The alleged violations below (2a & 2b) have been grouped because they involve similar or related hazards that may increase the potential for illness or injury resulting from an accident.

Citation 1 Item 2a Type of Violation: **Serious**

29 CFR 1926.1101(e)(6) [Refer to chapter 12-145.1, HAR] was violated because:

The Class II asbestos roofing material removal work was not supervised by a competent person exposing the employees potentially to serious asbestos hazards.

29 CFR 1926.1101(e)(6) states "Competent Persons. The employer shall ensure that all asbestos work performed within regulated areas is supervised by a competent person, as defined in paragraph (b) of this section. The duties of the competent person are set out in paragraph (o) of this section."

Location: Job site of Lanakila Rehabilitation Center

Date By Which Violation Must be Abated:
Penalty:

Corrected
\$1,625.00

243

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

STATE OF HAWAII

Department of Labor and Industrial Relations
Hawaii Occupational Safety and Health Division

Inspection Number: 309458784
Inspection Dates: 06/27/2006 - 06/30/2006



830 Punchbowl Street, Room 425
Honolulu, HI 96813

Issuance Date: 08/23/2006

Citation and Notification of Penalty

Company Name: Beachside Roofing LLC
Inspection Site: 1809 Bachelot St, Honolulu, HI 96817

Citation 1 Item 2b Type of Violation: **Serious**

29 CFR 1926.1101(f)(2)(i) [Refer to chapter 12-145.1, HAR] was violated because:

The employer did not conduct an initial exposure assessment for the Class II asbestos roofing material removal work exposing the employees potentially to serious asbestos hazards.

29 CFR 1926.1101(f)(2)(i) states "Each employer who has a workplace or work operation covered by this standard shall ensure that a "competent person" conducts an exposure assessment immediately before or at the initiation of the operation to ascertain expected exposures during that operation or workplace. The assessment must be completed in time to comply with requirements which are triggered by exposure data or the lack of a "negative exposure assessment," and to provide information necessary to assure that all control systems planned are appropriate for that operation and will work properly."

Location: Job site of Lanakila Rehabilitation Center

Date By Which Violation Must be Abated:

Corrected

242

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

STATE OF HAWAII

Department of Labor and Industrial Relations
Hawaii Occupational Safety and Health Division

Inspection Number: 309458784
Inspection Dates: 06/27/2006 - 06/30/2006



830 Punchbowl Street, Room 425
Honolulu, HI 96813

Issuance Date: 08/23/2006

Citation and Notification of Penalty

Company Name: Beachside Roofing LLC
Inspection Site: 1809 Bachelot St, Honolulu, HI 96817

The alleged violations below (3a & 3b) have been grouped because they involve similar or related hazards that may increase the potential for illness or injury resulting from an accident.

Citation 1 Item 3a Type of Violation: **Serious**

29 CFR 1926.1101(k)(3)(ii) [Refer to chapter 12-145.1, HAR] was violated because:

The employer did not inform the employees of the presence of asbestos in the work area and the precautions to be taken thus exposing the employees potentially to serious asbestos hazards.

29 CFR 1926.1101(k)(3)(ii) states "Before work under this standard is performed employers of employees who will perform such work shall inform the following persons of the location and quantity of ACM and/or PACM present in the area and the precautions to be taken to insure that airborne asbestos is confined to the area. (A) Owners of the building/facility; and (B) Employees who will perform such work and employers of employees who work and/or will be working in adjacent areas."

Location: Job site at Lanakila Rehabilitation Center

Date By Which Violation Must be Abated:
Penalty:

Corrected
\$1,625.00

241

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

STATE OF HAWAII

Department of Labor and Industrial Relations
Hawaii Occupational Safety and Health Division

Inspection Number: 309458784
Inspection Dates: 06/27/2006 - 06/30/2006



830 Punchbowl Street, Room 425
Honolulu, HI 96813

Issuance Date: 08/23/2006

Citation and Notification of Penalty

Company Name: Beachside Roofing LLC
Inspection Site: 1809 Bachelot St, Honolulu, HI 96817

Citation 1 Item 3b Type of Violation: Serious

29 CFR 1926.1101(k)(9)(iv)(A) [Refer to chapter 12-145.1, HAR] was violated because:

The employer did not provide a Class II asbestos removal work training to the employees thus exposing the employees potentially to serious asbestos hazards.

29 CFR 1926.1101(k)(9)(iv)(A) states "For work with asbestos containing roofing materials, flooring materials, siding materials, ceiling tiles, or transite panels, training shall include at a minimum all the elements included in paragraph (k)(9)(viii) of this section and in addition, the specific work practices and engineering controls set forth in paragraph (g) of this section which specifically relate to that category. Such course shall include "hands-on" training and shall take at least 8 hours."

Location: Job site at Lanakila Rehabilitation Center

Date By Which Violation Must be Abated:

Corrected

240

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

STATE OF HAWAII

Department of Labor and Industrial Relations
Hawaii Occupational Safety and Health Division

Inspection Number: 309458784
Inspection Dates: 06/27/2006 - 06/30/2006



830 Punchbowl Street, Room 425
Honolulu, HI 96813

Issuance Date: 08/23/2006

Citation and Notification of Penalty

Company Name: Beachside Roofing LLC
Inspection Site: 1809 Bachelot St, Honolulu, HI 96817

Citation 2 Item 1 Type of Violation: **Other**

29 CFR 1926.1101(h)(1)(iv) [Refer to chapter 12-145.1, HAR] was violated because:

The employer did not provide and require respiratory protection for the employees who did Class II asbestos roofing material removal work thus exposing the employees potentially to serious asbestos hazards.

29 CFR 1926.1101(h)(1)(iv) states "General. For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this paragraph. Respirators must be used during: Class II and III asbestos work for which a negative-exposure assessment has not been conducted."

Location: Job site at Lanakila Rehabilitation Center

Date By Which Violation Must be Abated:
Penalty:

Corrected
\$.00

239

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

STATE OF HAWAII

Department of Labor and Industrial Relations
Hawaii Occupational Safety and Health Division

Inspection Number: 309458784
Inspection Dates: 06/27/2006 - 06/30/2006



830 Punchbowl Street, Room 425
Honolulu, HI 96813

Issuance Date: 08/23/2006

Citation and Notification of Penalty

Company Name: Beachside Roofing LLC
Inspection Site: 1809 Bachelot St, Honolulu, HI 96817

Citation 2 Item 2 Type of Violation: **Other**

29 CFR 1926.1101(i)(1) [Refer to chapter 12-145.1, HAR] was violated because:

The employer did not provide and require protective clothing for the employees who did Class II asbestos roofing material removal work thus exposing the employees potentially to serious asbestos hazards.

29 CFR 1926.1101(i)(1) states "General. The employer shall provide and require the use of protective clothing, such as coveralls or similar whole-body clothing, head coverings, gloves, and foot coverings for any employee exposed to airborne concentrations of asbestos that exceed the TWA and/or excursion limit prescribed in paragraph (c) of this section, or for which a required negative exposure assessment is not produced, or for any employee performing Class I operations which involve the removal of over 25 linear or 10 square feet of TSI or surfacing ACM and PACM."

Location: Job site at Lanakila Rehabilitation Center

Date By Which Violation Must be Abated:
Penalty:

Corrected
\$.00

NELSON B. BEFITEL
DIRECTOR

238

See pages 1 through 3 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of Hawaii
Department of Labor and Industrial Relations
HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION
830 PUNCHBOWL STREET, ROOM 425
Honolulu, HI 96813

SUMMARY OF PENALTIES

Company Name: Beachside Roofing LLC
Inspection Site: 1809 Bachelot St
Honolulu, HI 96817
Issuance Date: 08/23/2006

Summary of Penalties for Inspection Number 309458784

Citation 01, Serious	=	\$4,875.00
Citation 02, Other	=	\$0.00
TOTAL PENALTIES	=	\$4,875.00

Make check or money order payable to the "Director of Budget and Finance." Please indicate the inspection number and dba, if company name is different, on the remittance. A fee of \$15.00 will be charged for any returned checks.

If receipt is desired, please indicate with payment; otherwise, your cancelled check will be your receipt.

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Health Postage	\$ 1.11
Certified Fee	2.40
Return Receipt Fee (Endorsement Required)	1.85
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.36

3094587843

POST OFFICE 96820
 AUG 2004
 Postmark
 Place
 USPS

Sent To: **Beachside Roofing LLC**
 Street, Apt. No., or PO Box No. **91-522 Nukuawa Street**
 City, State, ZIP+4 **Kapolei, Hawaii 96707**

PS Form 3800, June 2002 See Reverse for Instructions

9/13/06

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <i>Ang Lee</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>MICHAEL L. YOMES</i> C. Date of Delivery <i>8/24/06</i></p> <p>D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>
<p>1. Article Addressed to: 309458784</p> <p>Mr. Michael Yomes Operations Supervisor Beachside Roofing LLC 91-522 Nukuawa Street Kapolei, Hawaii 96707</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label) 7005 3110 0001 1082 0421</p>	

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540